IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No. 472 of 2007.

Judgement reserved on: .

Date of decision: 18.7.2007.

Ishwar Dass Soni ….. Petitioner.

Vs.

Gian Chand …. Respondent.

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr. K.D. Sood, Advocate.

For the Respondent :

Surjit Singh, Judge (Oral).

Heard and gone through the record.

2. The petitioner is aggrieved by the judgement of the trial court whereby respondent Gian Chand, against whom a criminal complaint, under Sections 167, 467, 468, 471 IPC, was filed has been acquitted with the finding that the case of the complainant- petitioner, does not stand proved.

3. Through the present petition, leave is sought to file appeal against the said judgement.

Whether the reporters of the local papers may be allowed to see the Judgment?

4. The allegation against the respondent is that he while working as Patwari, interpolated an entry in the *Rojnamcha Wakayati*, indicating that an exchange of land had taken place between the petitioner and one Smt. Shakuntla Devi, on or before 9th January, 1994 and that on the strength of this entry in the *Rojnamcha*, a mutation was entered and attested regarding the exchange. It is alleged that as a matter of fact, no exchange had taken place and in December, 1994, the petitioner had filed a suit against said Shakuntla Devi asserting ownership over the land allegedly given in exchange to Shakuntla Devi, as per aforesaid *Rojnamcha* entry and mutation order. It is alleged that in fact the interpolation in the *Rojnamcha* was done in the month of January, 1995, but the date was recorded as 9th January, 1994 with a view to helping Shakuntla Devi to build up her defence in the civil suit that the property had been given to her in exchange and thus the respondent committed the offences of making false public record and forgery.

5. We have been shown the copy of Reports No. 178 to 191 in the *Rojnamcha,* as also the copy of mutation order. The first entry in the copy that has been shown to us is numbered 178. This is dated 5th January, 1995. The next entries are No. 179 and 180, which are dated 6th January, 1994. Entry No. 181 is dated 7th January, 1994. Entry No. 182 is dated 8th January, 1994. Then there are entries No. 182 to 190, which are dated 9th January, 1994. Last entry on the Photostat copy shown to us is No. 191, which is dated 10th January, 1995. It is clear from this Photostat copy that the first

and the last entry are of January, 1995, but the entries in between the first and the last entries bear the dates of January, 1994.

6. We are of the considered view that it is only by mistake committed in good faith that the year 1994 has been written with different dates of the month of January in respect of the entries falling between the first and the last entry. This mistake appears to have occurred on account of the fact that till the last day of December one year is written as part of the date for very long time and when the year changes overnight many people unwittingly happen to write the previous year many a time for a good number of days of the new year.

7. Not only this, the mutation order shows that in the entry made in Column No. 15, the respondent very specifically stated that the date of the report, in question, i.e. Report No. 188 was 9th January, 1995. Had the respondent had any dishonest intention, as is alleged by the complainant, he would not have written the date of the said report as 9th January, 1995, in the mutation order.

8. In view of the above stated position, we find no merit in the present petition for leave to appeal. Hence the same is dismissed.

(Surjit Singh),
Judge.

July 18, 2007.
(*Hem*)

(Kuldip Singh)
Judge.